IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 12TH DECEMBER 2007 / 21ST AGRAHAYANA 1929

Crl.MC.No. 3721 of 2007()

C.C.NO.306/06 OF J.F.C.M-II, KASARAGODE

PETITIONER:ACCUSED

SHIVDAS RAI.N,
S/O.LATE VISHWANATHA RAI,
C/O.VIDYARTHI.A.R.3/30 A
K.R.E.C SURAKSHA POONJA ROAD,
MUNCHOOR, SRINIVASA NAGAR,
SURATHKAL, MANGALORE TALUK.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT & STATE

---

1. I.SUJAY ALVA,
S/O.LATE E.THIMMANNA ALVA
SUDHIR NIVAS, KUMBALAPAD
KOIPADY VILLAGE,
KASARAGODE TALUK, KUMBALA.O.O.

2. STATE REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3721 of 2007

Dated this the 12th day of December 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. The matter has reached the fag end of trial now. The petitioner had filed an application calling upon the complainant to produce certain documents. The bone of contention is that the complainant had a place of residence at Kumbla. The complainant did not produce the documents called for. Instead of requesting the learned Magistrate to draw adverse inference against the complainant, the petitioner proceeded with the attempt. At the defence stage, an application was filed to summon the Secretary of the local authority to cause production of the building tax assessment register. That application was dismissed by the learned Magistrate by Annexure IV order. The petitioner claims to be aggrieved by the said order.

2. At the first instance, I note that the building tax assessment register is a document of which certified copy can be applied for and obtained. I do further take note of the fact that the impugned order is at any rate only an interlocutory order.

Law frowns upon the challenge against interlocutory orders during the pendency of proceedings. Such interlocutory orders must normally and ordinarily wait for their challenge till final orders are passed in the proceedings.

3. I must also remind myself of the nature and quality of the jurisdiction which I am called upon to invoke and exercise. It is the extraordinary inherent jurisdiction which is sought to be invoked. Such jurisdiction has to be invoked only sparingly and in exceptional cases in aid of justice.

4. I do not intend to express any final opinion on merits about the correctness of the impugned order. Suffice it to say that I have no reason at this stage to invoke the extraordinary inherent jurisdiction under Section 482 Cr.P.C to interfere with the impugned order.

5. This Criminal Miscellaneous Case is in these circumstances dismissed. I may hasten to observe that the dismissal of this Criminal Miscellaneous Case will not in any way fetter the rights of the petitioner to challenge the interlocutory order if the same be necessary along with the final order to be passed in the prosecution by the learned Magistrate.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007